

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Plus 2C Contracts (MC2012-5)
Negotiated Service Agreement

Docket No. CP2015-67

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING CONTINGENCY PRICES FOR A GLOBAL
PLUS 2C NEGOTIATED SERVICE AGREEMENT

(May 25, 2016)

The Public Representative hereby provides comments pursuant to Order No. 3298.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice establishing a contingency price arrangement pursuant to a provision in an expired International Business Reply Service (IBRS) competitive contract.² The contingency price arrangement, consisting of new prices applicable to merchandise and other articles returned in postage-prepaid IBRS packaging from overseas locations to a U.S.-based entity, are to be effective June 1, 2016, and remain in effect indefinitely. *Id.* at 3.

Contingency prices represent the Postal Service's response to the particular nature of IBRS as a return service that is permitted by a surviving provision of a contract that expires on May 31, 2016. Notice at 2. A successor contract between the Postal Service and the contracting partner has not been executed. *Id.* Nevertheless, overseas customers have the option of indefinitely returning used or defective articles to the contracting partner in the U.S. using the postage-prepaid IBRS packaging. Given this

¹ PRC Order No. 3298, Notice and Order Concerning Contingency Prices for a Global Plus 2C Negotiated Service Agreement, May 18, 2016.

² Notice of United States Postal Service of Prices under Functionally Equivalent Global Plus 2C Negotiated Service Agreement, May 16, 2016 (Notice).

contingency, over which the contracting partner has no control, the Postal Service establishes prices to cover its costs of accepting and delivering such returned items pursuant to the surviving provision of the expired contract. *Id.*

Comments

In this proceeding, the Postal Service requests that the Commission include the proposed indefinite contingency price arrangement within the IBRS Competitive Contract based on its functional equivalence to the IBRS contracts in Docket Nos. MC2012-5, CP2012-10 and CP2012-11.³ The instant contingency price arrangement operates as a unique response to an expired contract for a very specialized postal service that is available for a relatively few remaining postage-prepaid packages which will ultimately disappear.

Functional Equivalence. The Postal Service asserts that the original Agreement shares similar characteristics as those of the contract that is the subject of Docket No. MC2012-5, CP2012-10, and CP2012-11 which serves as the baseline agreement for the Global Plus 2C contracts. *Id.* at 3. The original agreement was approved by The Commission in Order No. 2495.⁴ The Postal Service also asserts that the “contingency arrangement is very similar to the contingency arrangements included in the Global Plus 2C baseline contracts in Docket Nos. MC2012-5, CP2012-10, and CP2012-11”. Notice at 3.

The Public Representative has reviewed the contingency prices and supporting financial model filed under seal that accompanies the Postal Service’s Notice. Based upon that review, the Public Representative concludes that the proposed indefinite contingency price arrangement may be treated as functionally equivalent to the previously approved arrangements. In addition, it appears the contingency prices should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633. It should be noted that the Postal Service provides no volume estimates

³ The Commission approved the baseline Global Plus 2C Agreement in Docket MC2012-5, CP2012-10, and CP2012-11. PRC Order No. 1135. Order Adding Global Plus 2C to the Competitive Product List and Approving Functionally Equivalent Global Plus 2C Agreements, January 13, 2012.

⁴ PRC Order No. 2495, Order Approving Additional Global Plus 2C Negotiated Service Agreement, May 20, 2015.

under the financial model filed under seal, and thus no cost coverage estimates are available. Nevertheless, based on the revenue and cost per piece data provided, the contingency prices do appear to cover costs.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal with the Postal Service's Notice, it appears that the new contingency prices to should generate sufficient revenues to cover costs and thereby satisfy the requirements of section 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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